

ITEM NO.106

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6100/2005

SHINDER PAL KAUR

Appellant(s)

VERSUS

STATE OF PUNJAB & ORS.

Respondent(s)

(with office report)

Date : 19/02/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA
HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Ashwani Kumar,Adv.

For Respondent(s)

Mr. Kuldip Singh,Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(SUMAN WADHWA)
AR-cum-PS

(MALA KUMARI SHARMA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6100 OF 2005

Shinder Pal Kaur

Appellant(s)

VERSUS

State of Punjab & Ors.

Respondent(s)

O R D E R

The correctness of the order dated 24.8.2004 passed in C.R.No. 3906/2003 is under challenge by the appellant, who is the plaintiff herein, in the original suit proceeding instituted by her against the respondent State Government for non-payment of the arrears towards the revised salary w.e.f. 9.2.1978. The Civil Court passed the decree on 11.5.2000 for the arrears of pay with the compound interest at the rate of 12% per annum, which has become due on 9.2.1978 till the realization of the decretal amount. The said decree was not satisfied by the respondent. Therefore, the appellant has filed the execution petition before the Executing Court to execute the decree dated 11.5.2000. The Executing Court quantified the amount of interest on the decretal amount directed the respondent to pay the said amount. The order of compound interest awarded in the decree in favour of the appellant. That order was challenged before the High Court by the respondent, inter alia, contending that the Civil Court has no jurisdiction to compound interest at the rate of 12% as the grant of interest is governed by provision of Section 34 of the

C.P.C. Therefore, the Civil Court could not have granted the compound interest at the rate of 12% in decree in favour of the appellant. The said contention is accepted by the High Court without there being an appeal challenging the interest and decree passed in the original suit in favour of the appellant. The High Court has committed an error in setting aside the decree in so far as to compound interest is concerned, and awarded 6% interest on the decretal amount, that amounts to modifying the decree in the revisional proceedings which is not permissible in law. But at the same time, though the respondent State has not challenged the decree with regard to the quantum of compound interest at 12% awarded in favour of the appellant payable to him, we are of the view that compound rate of interest awarded on the arrears of pay scale payable to the appellant is questionable as the same would be contrary to law. To that extent, we clarify in this order that the appellant is entitled to 12% simple interest in place of compound interest decreed by the trial Court, though it has attained finality; we modify the Decree of awarding simple interest at 12% in place of compound interest granted by the trial Court in exercise of this Court jurisdiction in the interest of justice.

For the reason stated supra, the impugned order passed by the High Court reducing the rate of interest 6% on the decretal amount passed in favour of the appellant is set aside and we modify the order awarding simple interest at

12% on the decretal amount passed by the trial Court in favour of the appellant.

In view of the above terms, the appeal is allowed but no costs. It is needless to mention in this order that the respondent-State shall release the pensionary benefits on the basis of the revised salary for which he is legally entitled to under the pay scale and arrears, if any, as per the decree with simple interest at the rate of 12% per annum. As awarded by the trial Court from the date 9.2.1978 till the date of payment/deposit.

With the above observation and direction to the State we allow this appeal.

.....J.
(V. GOPALA GOWDA)

.....J.
(C.NAGAPPAN)

New Delhi;
Date: 19.2.2015.